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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY/AGENT NO.	CONFIRMATION NO.
09/731,116	12/06/2000	Shoichi Kyoya	92813846	9201

757 7590 01/13/2003
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EXAMINER

HARRINGTON, ALICIA M

ART UNIT PAPER NUMBER

2873

DATE MAILED: 01/13/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No. 09/731,116	Applicant(s) KYOYA, SHOICHI	
Examiner Alicia M Harrington	Art Unit 2873	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply.

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 29 July 2002.
- 2a) This action is FINAL. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-8 is/are pending in the application.
4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 1-8 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) The proposed drawing correction filed on _____ is: a) approved b) disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) All b) Some * c) None of:
1. Certified copies of the priority documents have been received.
2. Certified copies of the priority documents have been received in Application No. _____.
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) The translation of the foreign language provisional application has been received.
- 15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____
- 4) Interview Summary (PTO-413) Paper No(s) _____
- 5) Notice of Informal Patent Application (PTO-152)
- 6) Other:

DETAILED ACTION

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-8 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Regarding claim 1, applicant has amended claim 1 at lines 11-14, and the amended is unclear. The language not concise and now provides that one of ordinary skill read the text several time to under that a wavelength separating layer is comprised of a medium have two interfaces and the material between the two interfaces has a specific refractive index. The applicant further amends claim1 at lines 29-31, to recite “ a reflecting position of the laser beam at the first wavelength at the first interface and a **delivering position** of the laser beam of the second wavelength **are set at the same position**”. The claim fails to define where a delivering position commences. The Examiner is also unclear how the reflecting position and deliver position are at the same position when the wavelengths are reflected from separate layers. Thus, applicant fail to specifically point out and distinctly claims the subject matter which applicant regards as the invention.

Claim 2 is an indefinite claim as it fails to further limit claim 1.

Claims 3-8 inherit the indefiniteness from claim1 for which they depend.

Response to Amendment

Art Unit: 2873

Applicant stated in the remarks sections, that claims 2 and 4 were cancelled. But applicant never provided an amendment to cancel claims 2 and 4. Thus, the application is examined with claim 1-8 where claims 1 and 3 were amended.

Allowable Subject Matter

Claims 1-8 would be allowable if rewritten or amended to overcome the rejection(s) under 35 U.S.C. 112, second paragraph, set forth in this Office action.

Response to Arguments

Applicant's arguments with respect to claims 1-8 are have been considered but are moot in view of the new ground(s) of rejection. As indicated above, applicants amendments has give claims 1-2, a 35USC 112, second paragraph problem.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a).

Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alicia M Harrington whose telephone number is 703 308 9295. The examiner can normally be reached on Monday - Thursday 9:30-6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Georgia Epps can be reached on 703 308 4883. The fax phone numbers for the organization where this application or proceeding is assigned are 703 308 7724 for regular communications and 703 308 7724 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703 308 0956.

AMH
January 9, 2003

Alicia M Harrington
Examiner
Art Unit 2873


RICKY MACK
PRIMARY EXAMINER

L Number	Hits	Search Text	DB	Time stamp
1	0	369/112.01,112.09	USPAT	2003/01/09 12:48
2	439	(359/634).CCLS.	USPAT	2003/01/09 12:48
3	11	((359/634).CCLS.) and ((optical near2 disk)or (optical near2 disc))	USPAT	2003/01/09 13:02
4	0	((optical near2 disc) or (optical near2 disk)) and coincid\$5 and beamsplitter	USPAT	2003/01/09 13:04
5	0	((optical near2 disc) or (optical near2 disk)) and coincid\$5 and beamsplitter	US-PGPUB; EPO; JPO	2003/01/09 13:05
6	0	((optical near2 disc) or (optical near2 disk)) and beamsplitter	US-PGPUB; EPO; JPO	2003/01/09 13:06
7	48604	((optical near2 disc) or (optical near2 disk))	US-PGPUB; EPO; JPO	2003/01/09 13:06
8	24	((optical near2 disc) or (optical near2 disk))) and beamsplitter	US-PGPUB; EPO; JPO	2003/01/09 13:08
10	3	((optical near2 disc) or (optical near2 disk))) and coincident and beamsplitter	USPAT; US-PGPUB; EPO; JPO	2003/01/09 13:09
9	671	((optical near2 disc) or (optical near2 disk))) and coincident	USPAT; US-PGPUB; EPO; JPO	2003/01/09 13:12
11	96	(369/112.01).CCLS.	USPAT	2003/01/09 13:17
12	31	(369/112.09).CCLS.	USPAT	2003/01/09 13:17

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